Thurgood Marshall: The Rabbit Out of LBJ's Hat, P. 2

Warnings That We May Use New Gas and Nerve Weapons in the Vietnamese War

"Coincident with formation of the new airmobile division, the Army is issuing improved new gas masks to its helicopter pilots. A hood to protect the head and neck against mustard and 'V'-type nerve gases which seep through the skin is also being developed. . . . Left unsaid in reports on the new equipment is that it protects the helicopter crewmen from gas he might be distributing as well as from enemy chemicals."

—Aviation Daily, July 12.

"As physicians we are particularly concerned with the use of chemical and biological weapons. As other more conventional weapons prove unavailing, there is certain to be mounting pressure for the use of these weapons. Chemical and biological weapons, often mislabelled 'humane,' are in practice inhumane, and represent a further erosion of our moral and political position. . . . We urge you to open the public discussion on the present and contemplated use of these weapons in Vietnam."

—From a letter to Congressmen by Physicians for Social Responsibility, July 12.

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German Nuclear Arms and Harriman's Talks In Moscow

President Johnson and his advisers have set out on a course in Vietnam where much can happen that is beyond their control. One gamble is whether Moscow will enter the war or cause trouble elsewhere as we commit an increasing portion of our military forces to East Asia. The price being dangled before the Kremlin is the abandonment of the MLF, which would put a German finger on the West's nuclear trigger. We suspect that the Russians have been told that this may be their last chance to block what they and their European allies fear most—German nuclear armament. We ought to fear it, too. It was the Korean war which led to German conventional rearmament. It was argued that this was the only way to protect our European flank while we were involved in Korea. A prolonged Vietnamese war might by the same treacherous logic lead the U.S. to put nuclear arms into the hands of the Germans as an additional deterrent in the West while we were bogged down in the East. The price of a treaty against further proliferation of atomic arms—i.e. a pledge that we would keep them from the Germans—would be an agreement by Moscow not to intervene militarily in the Vietnamese war. We suspect that these are the issues which lie behind Harriman's visit to Moscow, the sudden Russian decision to return to the Geneva arms talks and the alarmed cries from Schroeder and Adenauer in West Germany, which fears deeper U. S. engagement in Vietnam may lead us to seek an accommodation with the Soviet Union.

The Biggest Risk of All

It is difficult to imagine a trickier bit of power politics. What Mr. Johnson offers as the path to peace turns out to be that brink on which John Foster Dulles would have had us teeter. At almost every step there is fresh danger. The one which concerns Washington most is the possibility that hard-liners and military men might take over from the technocrats in the Kremlin, and treat us to the same kind of eyeball-to-eyeball confrontation over Vietnam we gave them over Cuba. Their feelings must be no different from those which would sweep our military if ordered to stand by and do nothing while one of our small allies was being mercilessly bombarded by the Soviet air force, as we are bombing North Vietnam. The No. 1 political argument against these bombings is that they humiliate Moscow in the eyes of its allies and make common action with the U. S. for a peaceful settlement almost impossible.

Even if we avoid a nuclear war with the Russians, we face another risk—war with China. Though the Chinese keep saying that they will not fight unless attacked, there are strong currents in the Pentagon for a preventive war with China. What if the military spark a wider conflict with some border provocation? An example was provided by the recent raids two days running on a portion of the Chinese railroad system which moves down into North Vietnam at Yen Bay and then back up into China. Only one newspaper has focussed attention on these raids. This is the *Washington Star* (July 14) which carried a story on them by Richard Fryklund, a reporter with sources in the Air Force. "U. S. bombers quietly expanded the Vietnamese war this week," was the way he began his story, "in a way that directly threatens important interests

(*Continued on Page Four*)

Adlai Stevenson

It was thrilling to hear Adlai Stevenson say in 1952, "Let's talk sense to the American people. Let's tell them the truth." It was a national misfortune that at the UN he was often forced to talk neither sense nor truth. He could have been a moral force if he had retired to private life after 1960, instead of accepting a post in which he was compelled to read stultifying scripts lesser men had prepared. He should have resigned after the Bay of Pigs. His last lost chance was to give up the job in protest over the Dominican affair. David Schoenbrun (Wash. Post, July 15) said Stevenson told him he regarded the intervention as a massive blunder, the defense of which "took several years off my life." James Wechsler in the New York Post reported Stevenson also had grave reservations about the air strikes at North Vietnam; well he might, since a year earlier at the UN he had criticized similar reprisals by the British in the Aden rebellion. The honors paid Stevenson by Johnson and Rusk attest the fact that he had allowed them to bury his integrity long before he died, a shadow of the man we once loved.

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The Fight Against The Coleman Appointment Pays Off for The Negro

Thurgood Marshall As The Rabbit Pulled Out of LBJ's Hat

At the Senate Judiciary Committee hearings on the nomination of James P. Coleman to the Fifth Circuit Court of Appeals, Senator Stennis said, "He is a devout believer in the law." Belief in the law, in Mississippi, is belief in the ingenious use of State legislation and judicial interpretation to nullify civil rights. As Governor, as David Cohen of the ADA testified, Coleman "put more anti-Negro and segregation legislation on the statute books of Mississippi than any other Governor." In large part due to Coleman's able efforts, while Congress has passed four civil rights acts in the last nine years, "less than 10 percent of the adult Negroes" (as Prof. Thomas I. Emerson of Yale testified) "are registered to vote in Mississippi." Congressman Conyers *(D. Mich.)*, in opposing the nomination, cited a resolution by the Southern Regional Council last November declaring, "In a situation where plain talk is desirable, we would report as plainly as we can that the progressive leadership of the South both Negro and white would find the appointment or promotion of any judge of well authenticated segregationist views to be a severe blow to regional, national and democratic interests."

Not A Hugo Black

There could hardly be a better authenticated segregationist than Coleman. It is argued in his behalf that in 1960 he supported the Kennedy-Johnson ticket. So did Senators Eastland and Stennis. This hardly qualifies him as a moderate by national standards. If those standards are to prevail in Mississippi, judicial appointments ought to be made from the ranks of those brave few Mississippians, white or Negro, who have opposed its identification of "law and order" with the maintenance of white supremacy. "While it is essential," Attorney General Katzenbach said in a queasy passage of his testimony for Coleman's confirmation, "that judicial officers at all levels respect and obey the law and administer it fairly, such an approach to the duties of the bench should be assumed in the absence of evidence to the contrary." Coleman's whole career has been devoted to preventing the Negro from enjoying his rights under Federal law. Is this not sufficient "evidence to the contrary"? It is, of course, possible that Coleman on the bench might do a complete reversal and become a pillar of civil rights. But if it were at all probable, we can be sure neither Senators Eastland nor Stennis would be supporting him. He is not going to break the law on the bench but he is more likely to bend a sympathetic ear to Southern white pleas for deliberation than to the cause of the Negro he has all his life obstructed. The attempt to compare him with Justice Black, as John Lewis of SNCC testified, is nonsense. Black had made a record as one of the most liberal Senators in the nation. Coleman's record is that of a successful segregationist Governor.

Realistically, confirmation can hardly be blocked, but the hearings have had salutary effect. It is evidence of the giant strides the Negro is making that he can put not only the ex-Governor of Mississippi but the senior Senator, Eastland, on the defensive, putting the spotlight not only on their public record but (in the latter's case) on his private life as a plantation owner and exploiter of Negro labor. For the first time in this century an Attorney General had to appear in person to support a judicial nomination, and President Johnson had to pull a rabbit out of his hat to appease Negro resentment, taking Thurgood Marshall off the Circuit Court and putting him in the Solicitor General's office, letting it be known that he was headed for the Supreme Court. The price of Coleman's confirmation is the appointment of the foremost legal Negro advocate of civil rights to become the first Negro Solicitor General. This has already been denounced as an affront to the South, as Coleman's nomination is an affront to the Negro. Two affronts, in this political arithmetic, seem to add up to a little progress.

As the 'Coffin Nail' Ad Men See It

"Advertising agencies with cigarette accounts generally thought they got off pretty easily on the bill Congress sent to the President requiring a health warning on cigarette packages.

" 'The bill doesn't mean a damn thing,' was the way one agency spokesman put it. 'Congress took the cigarette industry off the hook by making the bill meaningless.' This reference was to the provision of the bill that would bar the Federal Trade Commission from carrying out, at least until July 1, 1969, plans to require health warnings in cigarette advertising.

"The ad men . . . doubted generally that the warning [label on the package] would have any great effect on sales of cigarettes. 'The first thing you learn about labels in this business,' one agency executive commented, 'is that people don't read them'."

—Walter Carlson, in the New York Times' *daily advertising column, July 14.*

Deaths Rise: Safety Subordinated to Sales by Auto Companies Despite '57 Pledge

Senator RIBICOFF (D., Conn.): When I was governor, I headed up a governor's conference committee on highway safety, and I went out to Detroit, I believe it was in 1957, and after spending two days with all the top officers of all the automobile companies, we came to an understanding which was made public that the automobile companies would deemphasize speed and power.

Now it is very interesting to see what happened beginning in 1957: In 1957, 38,700 people were killed on our highways. In 1958, 36,900; in 1959, 37,800; in 1960, 38,137; in 1961, 38,091. In other words, for five years you had almost stabilized the number of deaths on our highways even though there was a continued increase in the number of automobiles, the number of motorists, and this was one of the best periods for highway safety in the U.S. Then comes 1962, and about that time the automobile industry started with their advertising and promotions to reemphasize speed and power. In 1962, the death rate was 40,800; in 1963, 43,500; in 1964, 48,000; in 1965, 50,000; and the estimate by 1975, 100,000 people will be killed on our highways. Now, what is your reaction to the automobile manufacturers starting to go back to emphasizing speed?

Mr. DONNER (Chairman of the Board, General Motors Corp.): . . . We are in a very competitive market. That is bound to affect advertising, but we have tried to stay with the policy. *—Senate Hearings on Auto Safety, July 13.*

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Justice Dept. Under LBJ Abandons Anti-Monopoly Positions Held Under JFK and Ike

Moving Toward the Big Business Viewpoint on Rail Merger and Patent Policy

The Johnson Administration has abandoned two critical anti-monopoly positions of the Kennedy Administration. On July 14, the Justice Department filed a brief with the Interstate Commerce Commission in which it virtually ended opposition to merger of the Pennsylvania Railroad with the New York Central. This opposition had been the one stumbling block to what promises to be the biggest merger in U.S. business history. The two railroads are the first and third largest in the country. The 25 men who will form the board of directors of the merged company also sit as directors of 180 other corporations with assets over $113 billion.

A Broad Hint to the ICC

The Department was careful not to come out directly in favor of the merger. In past opinions it has warned that the merger would give "one corporation an undue degree of economic power" and would be "detrimental to over-all rail competition in the East." In its new opinion, the Department incorporates its past objections but adds for the first time that "other factors may nevertheless persuade the commission to conclude that the merger is in the public interest." This means in effect that the government has decided to yield to ICC discretion. It means too that when the ICC approves the merger the government is not likely to challenge it in court.

There is also evidence that the Justice Department is reversing its position on government patent policy. Since 1947 the Department has been the most powerful advocate in the executive branch of the idea that patents on new products should not be given to private industry when the government has paid for the research and development. Even Republican Attorney General Brownell backed this position. In 1961 before the Senate Small Business Committee the Department went so far as to warn that any other policy would lead to extreme "monopolization of economic power." In 1963, Attorney General Katzenbach, then an assistant secretary, took a similar position before the same committee. Last week, however, the Department canceled a scheduled appearance before the Senate Patents Subcommittee. Instead it will submit written testimony and a new set of authors will do the writing. The subcommittee's Republican counsel has said the Department will take a more pro-business line.

A shift to the right in business policy can also be discerned in the announcement July 11th that five top officials at the Securities and Exchange Commission are resigning. The timing suggests a protest to tighter White House control over the SEC after the Texas Gulf Sulphur case. One of those leaving is Frederick Moss, director of the office of special proceedings. He played a key role in the exposé of illegal stock transactions within Texas Gulf. The *Wall Street Journal* April 27 reported that the President roundly criticized Commissioner Cohen and several staff members for their zealous investigation. Equally interesting in this regard is a little noticed Senate speech (May 26) by Sen. Gore *(D., Tenn.)*. He revealed that Clark Clifford, an adviser in LBJ's inner circle, was influential in getting the Internal Revenue Service to reverse a two-year-old ruling related to DuPont's divestiture of General Motors stock. The reversal resulted in a $56 million tax gift to the DuPont family.

Resistance to Space Mania Dwindles

It once seemed reasonable to argue that some of the money being spent on exploration into space could be put to better use here on earth. Last year Senator Fulbright used this argument in an effort to cut $260 million from the space program. The Senate voted him down by just five votes, 43 to 38. This year, on July 12, Senator Proxmire, supported by Clark, Morse, and Douglas, used the same argument to urge an almost identical reduction—a mere 5% of the $5 billion-plus space appropriation for 1966. This time, however, the Senate defeated the amendment by 45 votes, 61 to 16, and the press didn't even bother to carry the story. During the debate, Clark spoke of the increasing backlog of needs in housing, education and transportation. He warned of the growing hostility of the have-not nations and reminded his colleagues that our unemployment rate is the highest of any civilized country in the world. Proxmire revealed that there are already ten times more scientists working for NASA on space than for the National Institutes of Health on cancer and other deadly diseases. Thus can we measure our drift from sanity.

Beware Lest Blue Shield and Blue Cross Try to Take Over Medicare

In terms of benefits and financing, the new medicare program is far superior to anything the elderly might have hoped for last January. The bill the White House sent Congress covered little more than hospital room and board. Congress expanded it to include all doctor and surgical services both in and out of hospital. This is still not comprehensive insurance; drugs, dental care and long-term illness are major exclusions, and so of course are the millions of people under 65 who cannot meet the high cost of decent medical care. But for those over 65 medicare now offers security where there was none before.

The program's major question mark is its administration. Although Blue Cross and Blue Shield fought medicare bitterly in the past, they are now eagerly seeking a role in implementing it. Blue Cross pressed Congress for the job of auditing hospital costs and reviewing hospital utilization. Congress yielded in part by leaving the assignment of these tasks to the Secretary of HEW. To refute the charge of "socialized medicine" it also required that the part of the program having to do with doctor services should be administered entirely by a non-governmental agency. This will almost certainly be Blue Shield.

In a Senate speech that went unmentioned in the press, Wayne Morse warned against permitting private agencies to administer any part of medicare. How can Blue Cross audit hospital costs, he asked, when "Blue Cross is essentially a creature of the hospitals. . . . The majority of Blue Cross plan directors are either directly or indirectly affiliated with hospitals." Furthermore, Morse said, "Blue Cross plans may be affected by the amount of payments under the Government program—the larger the medicare payment the less the cost to be met by Blue Cross."

The same conflict of interest will exist if Blue Shield becomes responsible for setting doctor fees under medicare. For Blue Shield is controlled by doctors as Blue Cross is by hospitals. Blue Shield of Minnesota already has agreed to raise its standard of "customary and usual fees" in anticipation of medicare.

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What Fallacious New Forecasts Will McNamara Bring Back This Time?

(*Continued from Page One*)

of Red China." Two days later Morse in a Senate speech again expressed his fear that "the Pentagon, in its escalating war policies," will continue "knowingly to follow a course of action aimed at provoking China to commit an overt act." He also warned that he had heard "leading advisers" of the Pentagon admit that the bombing and destruction of Chinese cities would not defeat China but that we would "have to meet them on the ground." This could prove almost as disastrous as a nuclear war with Russia.

Bombing Our Friends

These are the gambles involved in those "new and serious decisions" for which Mr. Johnson is preparing the country. Those decisions are in the hands of a military, intelligence and diplomatic bureaucracy which has proven consistently wrong about Vietnam. In 1961 McNamara promised that the Taylor-Staley plan would crush the rebellion in 18 months. Two years later, just before the 1963 elections, he forecast that the war would be virtually over by 1965. What fallacious new forecasts will McNamara bring back this time? Only 18 months ago, on Feb. 18, 1964, he was telling us that "a counter guerrilla war can only be won by the Vietnamese themselves." Now we are being prepared to take over the war. First it was promised that counter-insurgency would end the rebellion, then that the bombings of the North would force Hanoi to call it off. Now we are back to imitating military plans like Gen. Navarre's with which the French, too, were once promised victory. The fact is that there has been a steady degeneration in policy. After years of saying that the war could only be won by winning the hearts of the people, we are intensifying those tactics which can only make them hate us more. A sample is provided by John T. Wheeler's AP dispatch (*Washington Post,* July 19) on "the wailing of women and the stench of burning bodies" which greeted our troops when they finally "liberated" the pro-government, Roman Catholic village of Bagia after three days of bombardment.

One Air Force officer admitted to Wheeler that this kind of bombardment usually kills "more women and kids" than Viet Cong. Another U.S. adviser, surveying the shattered homes and machine-gunned church, protested, "That's why we're going to lose this stupid damned war. Senseless, it's just senseless." The picture of a woman in that village cradling her baby and weeping as our troops moved in is unforgettable, except for those who put *realpolitik* above human values. Similar scenes lie hidden behind our claims of sparing civilians in our raids upon the North. "The major horror of the month," wrote Freda Cook, a British nurse working in North Vietnam (London *Tribune,* July 16), "was the bombing of the big leper sanatorium, an isolated settlement housing some 3,000 people. . . . Five times the bombers came, killing more than 80 invalids . . . and rendering 2,000 homeless, destroying 50 buildings and devastating clinics, orchards and vegetable gardens." Somebody must have mistaken the hospital for a bridge. In a posthumous letter published July 26 by *Newsweek,* Col. Pham Ngoc Thao, a patriotic Roman Catholic, who has just been assassinated, wrote "The more airplanes and bombs you send, the quicker you will lose the confidence of South Vietnam and of Southeast Asia." He called McNamara "a very bad adviser" and said that to win the people the U.S. must back "a socialist or almost socialist program." Rather than accept any such solution, Johnson and his advisers would risk a world in flames. *July 20.*

War For The Sake of Jobs?

"The other day a representative of a great union sat in my office protesting my position on the war in Vietnam. I listened patiently, very much interested in a point of view that is held by too many labor leaders in the United States today. During the conversation, he mentioned the great interest his union had in the helicopters, airplanes, munitions, and war materiel in Vietnam that was being manufactured by their labor. Senators know that I would be aghast. I was shocked to think that even the thought should go through his mind that any change in my position should be dictated by the alleged benefits to the economy of the United States by fighting a war in South Vietnam."

—Morse in the Senate, July 16.

Why Not Send That Youngster Off to School in The Fall With A Subscription to The Weekly

Bulletin Board

The Weekly will not be published in August. The next issue will be that dated Sept. 6, the first Monday in September. We wish at this time to record our appreciation of the able and devoted service rendered the Weekly during the past 18 months by a young editorial assistant, Charles Nathanson, who is returning to college to complete work on his doctorate in sociology. We wish to thank readers who sent in clippings from local papers we do not see and to apologize for our inability to answer the huge volume of letters received. It is impossible to put out the Weekly and respond personally and we ask the readers' indulgence.

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